IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.10085 of 2004

Shri Laxman Ganba Jadhav Petitioner

Vs.

Shri Tukaram Genba Jadhav
since deceased through his heirs:
1A. Shri Bapurao Tukaram Jadhav
and ors. Respondents

Mr.Dilip Bodake for petitioner.

CORAM: B.H.MARLAPALLE,J.

July 13, 2006.

P.C.

. Heard Mr.Bodake, the learned counsel for the petitioner.

. In Special Darkhast No.35 of 1990 the Civil Judge, Junior Division at Khandala had directed the Collector to effect partition as per the decree under execution and the Collector in turn vide his letter dated 15/7/1991 called upon the Tahsildar to visit the site locations i.e. the respective agricultural lands and to prepare a partition chart. On 23/10/1996 the Tahsildar effected the partition as per the chart he had drawn. The respondents were not

satisfied with the same and, therefore, they filed Appeal No.141 of 1996 which was dismissed by the SDO, Wai Sub-Division, Dist.Satara on 27/8/1997. The said order was challenged by the respondents before the Collector of Satara and the Additional Collector was pleased to dismissed the appeal no.24/11/1997. Finally the respondents approached the Divisional Commissioner by filing revision under Section 457 of the Maharashtra Land Revenue Code and the said appeal has been allowed on 17/11/2004. Hence this petition.

. The Additional Divisional Commissioner by the impugned order did not agree with the view taken by the SDO as well as the Collector on perusal of the record. He noted that from the total land of 3 H. and 58 R. located in village Lohom the present petitioner was given 2 H. 48 R. whereas the respondents were given only 1 H. 10 R. and this was of better quality land whereas from the other land located in village Karnwadi the petitioner was given 84 R. land whereas the respondents were given 8 H. and 66.6 R. land and thus making total 9 H. 77 R. to the respondents and to the share of the petitioner total land given was 3 H. 32 R. However, in terms of the revenue assessment the petitioner's land was

assessed at Rs.13.43 whereas the respondent's land was assessed at Rs.20.24. From the chart made by the Tahsildar, the Addl. Divisional Commissioner rightly held that perhaps the respondents were given less better quality land than due to them and therefore, the Tahsildar has been directed to undertake fresh enquiry by the impugned order.

. It is pertinent to note that the said order was stayed by this Court but only upto the date of notice being made returnable within ten weeks and as at present there is no stay to the impugned order or the order of status quo does not operate. When the partition decree was sought to be executed it was necessary for the Tahsildar to keep in mind both the quality as well as acreage of the land and the Addl. Divisional Commissioner rightly intervened and set aside the concurrent findings recorded by the S.D.O. as well as the Collector.

. No interference is called for in the impugned order as it does not suffer from any errors apparent on the face of record and hence this petition is rejected summarily under the supervisory powers under Article 227 of the Constitution. The Tahsildar shall

conduct and complete the fresh enquiry as expeditiously as possible and preferably within six months from today by taking into consideration all the relevant factors.

. Writ to go forthwith to the Collector, Satara.

(B.H.MARLAPALLE,J.)